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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

WILLIAM PERRY CARROLL,

Defendant and Appellant.

F072200

(Super. Ct. No. F15903710)

**OPINION**

**THE COURT\***

APPEAL from a judgment of the Superior Court of Fresno County. David Andrew Gottlieb, Judge.

Laurie Wilmore, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

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\* Before Levy, Acting P.J., Gomes, J., and Detjen, J.

Appointed counsel for defendant William Perry Carroll asked this court to review the record to determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Counsel filed an opening brief that sets forth the facts of the case. Defendant was advised of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days elapsed, and we received no communication from defendant. Finding no arguable error that would result in a disposition more favorable to defendant, we affirm the judgment.

We provide the following brief description of the facts and procedural history of the case. (See *People v. Kelly* (2006) 40 Cal.4th 106, 110, 124.)

On June 29, 2015, defendant pled no contest to spousal abuse (Pen. Code, § 273.5)<sup>1</sup> and admitted having suffered a prior felony conviction (§§ 667, subds. (b)-(i), 1170.12, subds. (a)-(d)). According to the plea form, a prior prison term allegation (§ 667.5, subd. (b)) would be dismissed, and the trial court indicated it would grant defendant's *Romero*<sup>2</sup> motion to dismiss the prior felony conviction and grant probation. The form stated that defendant's maximum exposure was four years in state prison. At the hearing, defense counsel stated: "And the Court has indicated probation. [Defendant] will be admitting the strike. The Court has indicated *Romero* of the strike. And I present the Court with a change of plea." The court addressed defendant: "All right. [Defendant], you've heard what has been said in regards to your case by your attorney. Is that, in fact, what you want to do is enter the plea under those terms and conditions?" Defendant answered, "Yes, Your Honor." The court informed defendant that his maximum exposure was four years in state prison. Defendant stated that he understood.

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<sup>1</sup> All statutory references are to the Penal Code.

<sup>2</sup> *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497 (*Romero*).

According to the probation officer's report, which summarized a crime report made by the Fresno Police Department in this case, defendant became violent with his girlfriend when their arguing escalated. He pushed her onto the bed, straddled her, and punched her twice in the face. She suffered bruises, swelling, and scratches to her face and other parts of her body.

The probation officer's report also noted that defendant had been convicted of three burglaries in 1987, 1997, and 2002; five controlled substance offenses between 2004 and 2010; and an attempted theft in 2012. He also incurred multiple probation and parole violations. The probation officer recommended a six-year term in state prison.

On August 5, 2015, at the sentencing hearing, the prosecutor recommended that defendant be sentenced to prison because of his criminal record, or that he be required to serve additional time in custody if granted probation. Defense counsel asked for leniency because defendant's criminal history involved mostly simple possession of drugs. The trial court stated:

“[Defendant], in this matter in order for me to place you on probation, I need to exercise extraordinary discretion and find unusual circumstances and circumstances that place you outside the three strikes law. I am going to find those circumstances exist in your case, that's based on the fact that the prior strike offense occurred 17 years ago.

“In addition to that since that time it appears as though most, if not all, of your convictions are related to consumption of controlled substances within the—between the years of 2004 and now, so for the past ten years. It's all involving drug offenses.

“For all those reasons, the Court is going to strike your prior strike conviction. I am going to find that you're a suitable candidate for probation based upon the nature of this offense and based upon, again, the time that has passed since your last serious or violent conviction.

“The Court is going to order, sir, that you be placed on a grant of formal probation for three years. You will be ordered to serve 300 days in

the custody of Fresno County Jail. You will have credits for 108 days already served; 54 actual and 54 good time work time credits.”

On August 25, 2015, defendant filed a notice of appeal, contending defense counsel’s representation was ineffective because the plea agreement was for 30 days in county jail and defendant was not told that a year of jail time was possible. Defendant also wrote a letter to the trial court stating that counsel had never visited him, had rushed him into signing the plea form, had misrepresented the deal to him, and had informed him he would serve 30 days in county jail and be released at sentencing.

According to the record, defendant’s plea agreement was not for 30 days in county jail. The court indicated a grant of probation, but informed him that his maximum exposure was four years in prison. The probation officer believed defendant should serve six years in prison, but the court decided to find unusual circumstances and grant probation. Based on defendant’s criminal history and his other prospects, he was granted a favorable sentence in exchange for his plea. The record bears no evidence of ineffective assistance of counsel. If defendant possesses evidence of ineffective assistance of counsel outside this record, his claim is more appropriately presented by way of a petition for writ of habeas corpus. (*People v. Johnson* (2016) 62 Cal.4th 600, 654.)

Having undertaken an examination of the entire record, we find no evidence of ineffective assistance of counsel or any other arguable error that would result in a disposition more favorable to defendant.

#### **DISPOSITION**

The judgment is affirmed.